



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

DAS:CMM
F. #2013R00948

*271 Cadman Plaza East
Brooklyn, New York 11201*

October 21, 2014

By ECF and Regular Mail

The Honorable Joseph F. Bianco
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: United States v. Philip Kenner
Criminal Docket No. 13-CR-607 (JFB)

Dear Judge Bianco:

The undersigned is firewall counsel in the above-captioned case. As firewall counsel, I have reviewed the electronic materials seized on November 13, 2013 during the execution of the search warrant at defendant Philip Kenner's home in Scottsdale, Arizona.¹ The electronic material consists of 64,468 documents (totaling over 300,000 pages) and was reviewed using Concordance, an electronic document management program. I have completed the firewall review and have identified four categories of documents: (1) "Not Privileged;" (2) "Privileged;" (3) "Unclear;" and (4) "To Be Redacted." The labels for the documents categorized as "not privileged" and "privileged" are self-explanatory. With respect to the documents labeled "unclear," it is unclear from the face of the document whether a privilege exists. The documents labeled "to be redacted" largely consists of non-privileged communications attached to or forwarded with privileged communications. With respect to this category, I intend to redact the privileged information and transmit the remaining non-privileged contents of the documents to the trial team.

¹ On March 24, 2014, the government provided Kenner with two (2) one-terabyte portable hard drives, which contained imaged copies of the electronic devices that were recovered from the defendant's home on November 13, 2013, pursuant to the search warrant.

This Office's Information Technology ("IT") Department is currently in the process of exporting the documents from Concordance in these four categories in order to provide them to Kenner's counsel for the defendant to review and assert any additional privileges thereto. The IT Department commenced exporting these documents from Concordance on Wednesday, October 15, 2014. However, given the size of the electronic materials, the IT Department has indicated that it will need an additional two weeks to complete the process.

In light of the above, the undersigned respectfully requests a two-week extension of time, to Tuesday, November 4, 2014, in which to provide Kenner with firewall counsel's review of the electronic materials. I have spoken with Richard Haley, Esq., counsel for defendant Kenner, who does not consent to the within request.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

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